



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: ALM, Incorporated

File: B-225589; B-225589.3; B-225589.4

Date: May 7, 1987

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### DIGEST

Award of cost-reimbursement contract to firm whose proposed costs were higher than protester's is not legally objectionable where agency reasonably concluded that personnel proposed in the protester's best and final offer did not meet the government's minimum qualification requirements set forth in the solicitation.

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### DECISION

ALM, Incorporated has protested the award of a Navy contract to Mission Engineering Corporation under request for proposals (RFP) N00164-84-R-0086, which was issued for a level-of-effort, 3-year, cost-plus-fixed-fee contract for maintenance engineering and logistic support services for electronic warfare systems related to various Naval aviation and electronic warfare programs.

We deny the protest.

ALM's protest consists of a series of letters, dated between December 23, 1986, and January 16, 1987, which were submitted as ALM "uncovered" "additional evidence" in support of its protest and to which we assigned, in order of their receipt, the file numbers B-225589 through B-225589.4. We dismissed B-225589.2 because it did not articulate a basis for protest and appeared to concern a matter of contract administration, which would not be for consideration under our bid protest function. A request by ALM that we reconsider our dismissal of B-225589.2 has become academic since we have reviewed the propriety of this procurement pursuant to the other correspondence ALM filed with us.

Those letters of protest which were written before ALM was debriefed by the Navy, are largely speculative and include the allegations that the Navy did not properly notify ALM of

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the award to Mission and that the prior award of an interim contract to Mission evidenced a "pattern of favoritism" toward that firm. In its post-conference comments, ALM did not rebut the Navy's position on these issues and we therefore deem ALM to have abandoned them. In any event, the first issue concerns an alleged procedural deficiency which would not affect the validity of an otherwise proper award, Employment Perspectives, B-218338, June 24, 1985, 85-1 C.P.D. ¶ 715 at 19, and there is no support in the record for the protester's speculation that agency officials rejected ALM's proposal out of favoritism toward its competitor. Lee J. Kriegsfeld, B-222865, Aug. 22, 1986, 86-2 C.P.D. ¶ 214 at 5-6. These issues, therefore, will not be considered further.

In its later correspondence, ALM also asserts that the members of the Navy's Source Selection Evaluation Board (SSEB), which evaluated the technical proposals submitted, lacked the qualifications for that task. The selection of individuals to serve as proposal evaluators is essentially a matter within the discretion of the agency, and we therefore decline to appraise the qualifications of such individuals absent a showing of possible fraud, conflict of interest, or actual bias on the part of the evaluators. Training & Management Resources, Inc., B-220965, Mar. 12, 1986, 86-1 C.P.D. ¶ 244. None of these is present here. We therefore will not consider ALM's challenge to the expertise of the members of the SSEB.

In its fifth letter, written after the Navy had debriefed ALM by telephone, the protester focuses on the principal issue in this case, which is the propriety of the Navy's evaluation of the qualifications and experience of certain personnel ALM proposed for performance of the contract. The Navy ultimately concluded that ALM's proposal was technically unacceptable because it did not contain the minimum number of qualified key personnel necessary for performance of the contract. ALM contends that the Navy did not properly evaluate the qualifications of two of the individuals it proposed.

#### Background

The work required under the RFP included integrated logistics support (ILS), readiness analyses, the establishment and maintenance of a master index of repairable, configuration management, program planning assistance, analysis and review of inter/intra-services support plans, assistance in the development of joint operating procedures and memorandums of agreement, depot maintenance support, and the development of maintenance review plans and procedures. The

RFP was issued on October 5, 1984. It provided that proposals would be evaluated under the following standards:

1. Personnel Resources, Corporate Experience and Corporate Organization
2. Understanding of Work and Technical Approach
3. Cost

Standards one and two were of equal importance; standard three was slightly less important than either one or two. Standard one was subdivided into two substandards: (a) "Degree of Employees' Experience," and (b) "Relativeness, Depth and Currency of Corporate Experience and Corporate Organization." Of the two substandards, (a) was stated to be "significantly more important" than (b). The first substandard provided that the Navy required that an offeror's key personnel meet the RFP's "minimum qualifications requirements" and that the number of key employees be equal to the required level-of-effort.

Finally, the RFP provided that technical proposals would be evaluated separately from cost proposals and that the contract resulting from the RFP would be awarded to the responsible offeror whose proposal conformed to the RFP and was determined to be the most advantageous to the government. To determine the proposal offering the greatest value the RFP said the following would be considered:

1. Degree of employees' experience;
2. Relativeness, depth and currency of corporate experience and organization;
3. How well the offeror understood the work to be performed and the quality of the technical approach;
4. The offeror's ability to project cost as related to the effort and cost reasonableness.

Under the terms of the RFP, therefore, technical merit outweighed cost in the evaluation of proposals and as to the first of the two co-equal technical evaluation criteria, an offeror's personnel resources--specifically, the degree of its proposed employees' experience--was "significantly more important" than corporate experience and organization. In addition, the RFP's statement of work prescribed minimum staffing and qualifications of various categories of key

employees. Specifically, the positions of Program Manager, Senior Engineer, Engineer and Junior Engineer, and Senior Logistics Analyst, Logistics Analyst and Junior Logistics Analyst, were to be staffed with personnel having certain minimum levels of professional and technical experience. These qualifications consisted of a 4-year degree, or its equivalent in experience, plus additional relevant work experience, the amount of which increased with seniority of position, in addition to that substituted for education, if any.

A total of three clarifying amendments were issued which extended the closing date to December 10, 1984. Four proposals were received in response to the RFP, including those submitted by ALM and Mission.

The Naval Air Systems Command, which has responsibility for the systems, programs and equipment covered by the RFP issued guidance concerning funding limitations on contractor support services in November and December 1984. This guidance delayed the start of the technical evaluation of the four proposals, and the initial technical evaluations were not completed until August 9, 1985. Under the evaluation of proposals, ALM was third-ranked, and its proposal was considered only "susceptible of being made acceptable," because of the company's failure to provide acceptable personnel to meet the minimum requirements of the RFP's Statement of Work.

In view of the time which had elapsed since initial proposals had been submitted, the Navy decided to call for the submission of revised proposals after the close of discussions with the possibility that a second round of discussions, followed by best and final offers (BAFOs), would be conducted.

The first round of discussions was conducted from May 9 through May 14, 1986.

In the course of those discussions, according to the minutes recorded and transcribed by the Navy, ALM was advised that a weak point in its proposal was a "lack of overall depth in personnel engineering experience." In a dialogue with ALM which, as transcribed, is about two single-spaced pages in length, the Navy went on to point out that the majority of individuals ALM proposed in the "Engineer" category lacked degrees:

" . . . As we [the Navy] went through the resumes, however, we had trouble relating the experience we were seeing of those people to be equal to the amount of engineering experience that you were

claiming that they would have. We didn't get a balance there, and because of that, the experience not being totally in engineering, we felt that was a weakness in the engineering disciplines."

Acknowledging that experience could be substituted for education, the Navy went on to state:

". . . Our problem was you were showing, I'll just pull numbers out, Mr. X as an engineer with no degree but 20 years of engineering experience and proposed him to support Task 1, 3, 5, 6 and 7. As we get into his resume we can only relate perhaps five years of his experience as actual, true engineering experience so we take that five years, use four of that to support his education requirements and that leaves an engineer now with one year experience. Which, we think tends to weaken that engineering group of people you have. Does that help answer the question any?"

Later in these discussions, the Navy and ALM specifically discussed a Senior Engineer and an Engineer whose resumes did not meet the minimum requirements of their respective labor categories. This did not affect ALM's rating, because the firm had proposed more than the minimum number of acceptable personnel in those categories. ALM was also advised, however, that its proposal was deficient in that two of the three Junior Logistics Analysts proposed did not meet the minimum requirements for that position because when experience was substituted for education, there was not enough experience related to the RFP's Statement of Work left to qualify these individuals.

ALM then submitted a revised proposal in which a number of personnel changes were made. The evaluators noted that the weak point of ALM's otherwise "average" revised proposal was a lack of overall personnel depth and range. In fact the proposal was considered deficient in that it did not contain the required number of acceptable resumes in the Program Manager, Junior Engineer and Junior Logistics Analyst categories.

In addition, some personnel in other categories did not meet the minimum education/experience requirements, but this did not count against ALM because it proposed a sufficient number of otherwise qualified personnel. Those personnel whose resumes were deficient in these categories, however, were noted for "information purposes." Among them were a Mr. J---, proposed as an Engineer, as to whom the evaluators noted: "Is claiming four years engineering experience instead of a degree. The resume does not reflect

engineering experience" and a Mr. M---, proposed as a Logistics Analyst, as to whom the evaluators concluded:

"Up until 1984 all the experience seems to be of a mechanical nature. The SSEB needs clarification of ILS experience during this time as a mechanic to determine actual applicable experience."

In general, the SSEB felt that ALM was overstating its proposed employees' experience, an observation it shared with ALM during the ensuing discussion.

A second round of discussions was held from July 28-31, 1986. During these discussions the Navy advised ALM that the "weakness" of its proposal was a "lack of overall personnel depth and range," and identified as a "deficiency" that some personnel submitted did not meet the minimum requirements for Program Manager, Junior Engineer and Junior Logistic Analyst. Specific individuals and the weaknesses in their resumes were then discussed, not only as to those whose lack of qualifications created "deficiencies" in ALM's proposal but also those who had been noted as an "informational" matter. The latter included Mr. J--- ("... four years of experience instead of a degree, and we need to see that defined a little better") and Mr. M---, as to whom the Navy advised ALM during discussions:

"... up until 1984 mechanical experience and we need clarification as to his ILS experience. All this is information for you to take another look and clarify where needed. Most of his experience is of a mechanical nature--his resume indicated he spent more time in mechanical work. Those are the people we need to have you take a better look for us to evaluate. Right now they would not be qualified to work on the contract."

Again, as in the first round of discussions, there was a dialogue about the type of engineering experience which would be an acceptable as a substitute for formal engineering education:

(Navy): "[Mr. Q---, proposed as Senior Engineer with a degree in mathematics and four years' experience in writing specifications, did not qualify for that position because he did not have sufficient engineering experience, i.e., 'work that engineers normally do.']"

(ALM): "You're defining engineering as hard core, this is getting very severe for the requirements of a service contract.

(Navy): "I understand, but when we start talking engineer, if he is substituting that experience for four years of education, at that point we have to be very specific that he is in that engineering work to get that experience. If he has spent one year working a slide rule and that is his depth of engineering experience, that's not going to do us any good on the contract. Now he might have twenty years on the fringes, but we need to see some good engineering experience. [Mr. Q---] may have that but the resume as we see it does not reflect that. We could not find enough to meet the minimum requirements.

(ALM): "What do you want as experience, I am getting confused as to your definition of engineers--both education and experience.

(Navy): "Education is a four-year degree, engineering - electrical, electronics, mechanical.

(ALM): He must actually do it?

(Navy): "A person is proposed as an engineer. He has spent four years writing specs, and that's all. He goes through four years of school, he has at least a broad background in engineering discipline. Now this one has spent four years writing specs. "If we need an engineer to go out and design something at that point, that person with that very limited experience in engineering, that one little portion of it, is very hard pressed to give a quality product."

ALM subsequently submitted a BAFO in which it again revised the "mix" of key personnel proposed for performance of the contract. Mr. J--- was moved from the Engineer to the Junior Engineer category; Mr. M--- was again proposed as a Logistics Analyst; the resumes for both were revised.

The Navy concluded that ALM's BAFO did not meet the agency's minimum requirements as set forth in the RFP, because it did not demonstrate that ALM could provide the number of technically qualified key personnel required by the solicitation. Specifically, the Navy determined that ALM's BAFO "lacked overall personnel depth and range" and that in the labor categories of Junior Engineer and Logistics Analyst ALM had not offered the minimum number of qualified personnel because Mr. J--- and Mr. M--- did not meet the education/experience criteria for positions for which they were proposed.

The contracting officer then prepared the post-negotiation, preaward business clearance which was approved by the Navy's review board on October 28, 1986. In this document, the contracting officer concluded that ALM's proposal was unacceptable due to its failure to meet the RFP's minimum personnel requirements, and he recommended that award be made to Mission, a technically higher-ranked offeror whose estimated cost and fee for the 3-year period of \$6,696,527 was approximately \$888,000 higher than ALM's. The Navy then gave its unconditional approval for an award to Mission on December 5, 1986. On December 22, 1986, the contracting officer notified Mission and the unsuccessful offerors of the award.

#### Discussion

ALM alleges that the Navy had no rational basis to find the company's proposal to be unacceptable because the two employees in question did meet the RFP's minimum standards and that, in any event, after receipt of BAFO's, the Navy should have conducted further discussions with the company in order to correct these perceived deficiencies rather than rejecting the company's proposal as unacceptable and making award at a higher estimated cost.

As noted above, the RFP specifically informed all offerors that it was of "significant importance" that offerors propose key personnel who would meet certain minimum education/experience requirements. Nevertheless, ALM proposed two employees who, in the Navy's view, did not meet these requirements. Specifically, the Navy points out, the RFP's Statement of Work set forth minimum education and/or experience requirements for the key personnel listed by each offeror in its proposal. The Navy's position is that two individuals proposed by ALM as Logistic Analyst and Junior Engineer failed to meet the minimum requirements for their respective personnel categories, and that in its BAFO, ALM did not list other qualified personnel in these categories to compensate for the unqualified individuals.



## Logistics Analyst

The RFP's Statement of Work required a Logistics Analyst to have a 4-year degree or equivalent experience (1 year of integrated logistics support (ILS) engineering experience could be substituted for each year of education).<sup>1/</sup> In addition to the education requirement, the RFP required a logistics analyst to have at least 4 years of progressively-responsible experience related to the Statement of Work including a minimum of 3 years on Naval Aviation/Electronic Warfare programs. This experience was to be current (within the past 2 years) and in addition to any experience used as a substitution for the education requirement.

The resume of Mr. M---, who was proposed as a Logistics Analyst, first appeared in ALM's revised proposal. This resume indicated that Mr. M--- served as a Navy aircraft mechanic from 1959-1981; as a senior mechanic for an airline from 1981-84; as a field service engineer for a another corporation from 1984-85; and as a "Logistics Analyst, Field Service Engineer" for ALM from 1985 to the present [June 1986]. Since Mr. M--- did not have a 4-year degree, under the terms of the RFP, 4 years of ILS/engineering experience would have to be substituted for each year of education, - plus at least 4 years of progressively responsible experience related to the RFP's Statement of Work including a minimum of 3 years on Naval Aviation/Electronic Warfare programs, a total of 8 years' qualifying experience.

As we indicated above, the SSEB could not conclude on the basis of this resume that Mr. M--- had sufficient qualifying experience to satisfy the RFP's requirements because up to 1984 his experience was "mechanical" and his ILS experience needed clarification. The Navy communicated these concerns

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<sup>1/</sup> The RFP defined ILS as a composite of all the support considerations necessary to assure the effective and economical support of a system for its lift cycle. ILS encompasses the identification, selection, acquisition, scheduling, stocking and distribution of spares, repair parts, facilities, support equipment, trainers, technical publications, contractor engineering and technical services, and personnel training as necessary to provide the operating forces with the capability to keep an end item functional. Further, the RFP incorporated a Defense Department Directive which listed the following work elements as being integral to the meaning of ILS: maintenance planning, personnel identification and acquisition, supply support and equipment, technical data, training and training support, computer resources support, facilities, packaging, handling, storage and transportation.

to ALM during discussions and advised the firm that "right now [Mr. M--- and others] would not be qualified to work on the contract."

In its BAFO, ALM again proposed Mr. M--- as a Logistics Analyst, and submitted for him a revised resume expanded in three respects: his training, his experience as it related to the ILS task under this contract, and his employment history. The Navy remained of the opinion, however, that Mr. M--- failed to satisfy the RFP's education/experience requirements.

In its protest, ALM contends that the Navy erred in its evaluation of Mr. M---'s qualifications, because he has "27 years of progressively responsible experience in Integrated Logistic Support in the very areas set forth in the RFP," possesses an Airframe and Powerplants license from the Federal Aviation Administration; and allegedly would qualify "for a civil service job" as a GS-12 Logistics Management Specialist.

The Navy emphasizes that a Logistics Analyst does not personally perform physical labor with regard to the maintenance, repair or supply of aircraft or weapons systems, but performs a management function to assure that all needed technical tasks are performed. "Knowledge of how to physically perform the technical work is not the same type of experience as identifying and planning for such work," it states, "and knowledge concerning how the technical work is performed does not necessarily mean that the technician is capable of performing the overall logistics management function." Measured by this standard, the Navy asserts, Mr. M---'s revised resume submitted with ALM's BAFO does not establish that he has the necessary 8 years' qualifying experience.

With regard to his 22 years of service as a Navy aircraft mechanic, the Navy notes that no logistics-type experience is claimed for Mr. M--- until 1979-81, when he was an "E-8, Senior Chief, Aviation structural mechanic safety and ILS analyst" with respect to various types of aircraft. The meaning of "ILS analyst"--which had been added to the resume--in this context was not clear to the Navy, to which it appeared that Mr. M---'s primary responsibilities were as an aviation structural mechanic, and that of the aircraft systems listed, only one was equipped with an electronic warfare system which would be included under the scope of this contract.

The Navy also regards Mr. M---'s study for, and receipt of, an Airframe and Powerplants license during the 1981-83 period as a "technical achievement in a specialized area"

but not as logistics management experience which qualifies for credit under the RFP. The Navy similarly regards this individual's 1983-84 experience as a senior mechanic for an airline. It therefore is of the opinion that ALM's proposal did not demonstrate that he had the requisite 8 years of qualifying experience.

#### Junior Engineer

The Navy also determined that the qualifications of Mr. J---, proposed by ALM for the Junior Engineer category, failed to meet the RFP requirements. The RFP required that a Junior Engineer have a 4-year degree from an accredited engineering school or equivalent experience (1 year of engineering experience could be substituted for each year of schooling), plus 2 years' experience related to the RFP's Statement of Work in addition to any experience used as a substitution for the education requirement. Mr J---'s services were first proposed by ALM in its revised proposal as an Engineer. (In addition to a 4-year degree or equivalent, this category required 4 years engineering experience with at least 3 years experience related to Naval Aviation/Electronic Warfare programs.) The Navy determined that Mr. J--- failed to qualify for the Engineer position -- because of experience deficiencies and, as we have noted above, advised ALM of that fact during the discussions which were held on July 30, 1986. His inability to meet the requirements for the Engineer position was not termed a deficiency at this stage, however, because ALM included enough other qualified personnel in this category in its revised proposal to satisfy the RFP requirements.

Although in its BAFO ALM moved this individual to the Junior Engineer category, the Navy determined that his experience also failed to satisfy the requirements for this position. In order for an individual lacking a degree, as did Mr. J---, to qualify as a Junior Engineer, 6 years of engineering experience, four of which would substitute for the degree requirement, would have been necessary. At the BAFO stage of the procurement, the failure of the employee to qualify as a Junior Engineer did constitute a deficiency in ALM's proposal because ALM did not list enough other qualified individuals in this category to satisfy the requirements of the RFP.

Mr. J---'s resume, as it appeared in the protester's BAFO, states that from 1976-81 he served in the Navy as an electronic warfare technician, and that his duties as an E-6 Leading Petty Officer of a shipboard electronic warfare work center included "operations and maintenance (corrective and preventive) of all shipboard electronic warfare equipment." From 1981 until the present [August 1986] he worked as a

field service maintenance representative in conjunction with the Saudi Naval Expansion Program.

The Navy's position is that as late as 1981, Mr. J--- was an enlisted electronic warfare technician primarily involved in operations and maintenance tasks, and while apparently a trained and competent technician, was not performing "engineering" tasks. The Navy is of a similar view with regard to Mr. J---'s work since 1981.

ALM disagrees with the Navy's assessment of Mr. J---'s experience, claiming that all 10 years of it constituted relevant "practical experience," more than enough to qualify him for the position of Junior Engineer.

In a similar case in which an offeror was determined to be technically unacceptable because of deficiencies in the resumes of proposed key personnel, which deficiencies were not corrected despite two inquiries by the contracting agency, we stated our applicable standard of review was as follows:

"In considering a protest of this nature, we do not evaluate proposals and make our own determination as to their relative merits. Houston Films, Inc. (Reconsideration), B-184402, June 16, 1976, 76-1 C.P.D. ¶ 380. That function is the responsibility of the contracting agency, which must bear the burden of any difficulties resulting from a defective evaluation. Procuring officials enjoy a reasonable degree of discretion in determining the technical adequacy of proposals, and their determination will not be disturbed unless shown to be unreasonable or otherwise in violation of procurement statutes or regulations. Essex Electro Engineers, Inc., et al., B-211053.2, et al., Jan. 17, 1984, 84-1 C.P.D. ¶ 74. Furthermore, the protester has the burden of affirmatively proving its case, and the fact that the protester does not agree with the agency's evaluation of its proposal does not itself render the evaluation unreasonable. Id." MetaMetrics Inc., B-219524, Oct. 3, 1985, 85-2 C.P.D. ¶ 377 at 3.

We conclude that the Navy's evaluation of ALM's technical proposal was reasonable. The solicitation made clear that an offeror's personnel resources, in particular the degree of its proposed employees' experience, was a major technical evaluation criterion. The minimum educational/experience qualifications for the various categories of key personnel were spelled out in the RFP and in two rounds of discussions

with ALM the Navy explored, in detail, both its general philosophy in crediting individuals' experience and the deficiencies it observed in specific individuals' resumes, including those whose lack of qualification resulted in the Navy's final conclusion that ALM's proposal was technically unacceptable.

With regard to the Logistics Analyst and Junior Engineer positions at issue, ALM proposed individuals whose lack of a 4-year degree meant that the Navy had to evaluate the experience related in their resumes to see if it could be substituted for the education requirement and also satisfy the applicable experience requirements. The Navy determined that it could not, for the reasons we have explained above. Although the protester takes issue with the Navy's determination, after examining the record including the resumes, the SSEB's evaluation and the minutes of the discussions, we are unable to conclude that the Navy unreasonably abused its discretion in finding that the individuals in question lacked the necessary management/engineering experience.

Given that ALM's proposal did not meet the Navy's minimum requirements, the proposal was properly rejected as unacceptable. Consequently, ALM's lower estimated cost for the work was not for consideration.

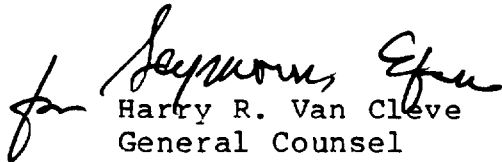
ALM also contends that the Navy should have conducted a third round of discussions to resolve the remaining deficiencies in ALM's proposal. We note, however, that the Navy specifically informed ALM during discussions of the deficiencies it perceived in the qualifications of Mr. M--- and questioned the adequacy of the qualifications of Mr. J---. In view of the thoroughness and specificity of the two rounds of discussions which were held, we do not believe the Navy was obligated to reopen discussions following receipt of BAFOs. Space Communications Company, B-223326.2; B-223326.3, Oct. 2, 1986, 86-2 C.P.D. ¶ 377 at 8.

Finally, in its post-conference comments, ALM asserts that the Navy did not apply a consistent rationale in evaluating the offers for award because although it stated that technical considerations were more important than cost it bypassed the technically highest-ranking offeror in order to make award to Mission, but then relied on Mission's technical superiority in not making award to ALM at a lower cost.

The record shows that the Navy considered the highest-ranking offeror (which has not protested its nonselection) and Mission to be essentially equal technically. After reviewing the 2 firms' cost proposals--which the Navy considered reasonable and realistic--the agency determined that the higher-scored firm's technical proposal was not

worth the considerable cost premium involved. ALM's BAFO, in contrast, was determined not to meet the government's minimum technical requirements and it therefore was not recommended for award even though its proposed costs (which the Navy found "questionable and unrealistic") were lower. ALM's competitive position was not comparable to the highest-ranked offeror's and we do not believe the record supports ALM's assertion that the Navy used inconsistent rationales in selecting Mission for award.

The protest is denied.

  
Harry R. Van Cleve  
General Counsel